HOUSE BILL No. 1542

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-4.

Synopsis: Regional economic growth revolving loan fund. Creates the regional economic growth revolving loan fund. Provides that certain entities that propose a project to create or retain jobs or otherwise affect the development of the state's economy within a geographic region are eligible for a loan from the fund. Provides that the development finance authority administers the fund. Specifies the terms and conditions of a loan. Requires the authority and the department of commerce to consider certain economic criteria before the bond bank issues a loan.

Effective: July 1, 2003.

Weinzapfel

January 16, 2003, read first time and referred to Committee on Technology, Research and Development.





First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1542

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION	1.	IC	4-4-11-14	IS	AMENDED	TO	READ	AS
FOLLOWS [E	FFI	ECT	IVE JULY	1, 20	003]: Sec. 14.	Befo	re:	

- (1) the issuance of any bonds or guaranteed participating loans under this chapter, IC 4-4-21, **IC 4-4-31**, or IC 15-7-5; or
- (2) the providing of any performance bond guarantees under IC 4-4-21;

each member of the authority shall execute a surety bond in the penal sum of twenty-five thousand dollars (\$25,000). To the extent any member of the authority is already covered by a bond required by state law, the member need not obtain another bond so long as the bond required by state law is in at least the penal sum specified in this section and covers the member's activities for the authority. In lieu of a bond, the chairman of the authority may execute a blanket surety bond covering each member and the employees or other officers of the authority. Each surety bond shall be conditioned upon the faithful performance of the duties of the office of the member and shall be issued by a surety company authorized to transact business in this state



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1	as surety. At all times after the issuance of any surety bonds, each
2	member shall maintain the surety bonds in full force and effect. All
3	costs of the surety bonds shall be borne by the authority.
4	SECTION 2. IC 4-4-11-15, AS AMENDED BY P.L.4-2002,
5	SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6	JULY 1, 2003]: Sec. 15. (a) The authority is granted all powers
7	necessary or appropriate to carry out and effectuate its public and
8	corporate purposes under this chapter, IC 4-4-21, IC 4-4-31, and
9	IC 15-7-5, including but not limited to the following:
10	(1) Have perpetual succession as a body politic and corporate and
11	an independent instrumentality exercising essential public
12	functions.
13	(2) Without complying with IC 4-22-2, adopt, amend, and repeal
14	bylaws, rules, and regulations not inconsistent with this chapter,
15	IC 4-4-21, and IC 15-7-5 and necessary or convenient to regulate
16	its affairs and to carry into effect the powers, duties, and purposes
17	of the authority and conduct its business.
18	(3) Sue and be sued in its own name.
19	(4) Have an official seal and alter it at will.
20	(5) Maintain an office or offices at a place or places within the
21	state as it may designate.
22	(6) Make and execute contracts and all other instruments
23	necessary or convenient for the performance of its duties and the
24	exercise of its powers and functions under this chapter, IC 4-4-21,
25	and IC 15-7-5.
26	(7) Employ architects, engineers, attorneys, inspectors,
27	accountants, agriculture experts, silviculture experts, aquaculture
28	experts, and financial experts, and such other advisors,
29	consultants, and agents as may be necessary in its judgment and
30	to fix their compensation.
31	(8) Procure insurance against any loss in connection with its
32	property and other assets, including loans and loan notes in
33	amounts and from insurers as it may consider advisable.
34	(9) Borrow money, make guaranties, issue bonds, and otherwise
35	incur indebtedness for any of the authority's purposes, and issue
36	debentures, notes, or other evidences of indebtedness, whether
37	secured or unsecured, to any person, as provided by this chapter,
38	IC 4-4-21, and IC 15-7-5.
39	(10) Procure insurance or guaranties from any public or private
40	entities, including any department, agency, or instrumentality of
41	the United States, for payment of any bonds issued by the



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authority or for reinsurance on amounts paid from the industrial

1	development project guaranty fund, including the power to pay
2	premiums on any insurance or reinsurance.
3	(11) Purchase, receive, take by grant, gift, devise, bequest, or
4	otherwise, and accept, from any source, aid or contributions of
5	money, property, labor, or other things of value to be held, used,
6	and applied to carry out the purposes of this chapter, IC 4-4-21,
7	and IC 15-7-5, subject to the conditions upon which the grants or
8	contributions are made, including but not limited to gifts or grants
9	from any department, agency, or instrumentality of the United
10	States, and lease or otherwise acquire, own, hold, improve,
11	employ, use, and otherwise deal in and with real or personal
12	property or any interest in real or personal property, wherever
13	situated, for any purpose consistent with this chapter, IC 4-4-21,
14	or IC 15-7-5.
15	(12) Enter into agreements with any department, agency, or
16	instrumentality of the United States or this state and with lenders
17	and enter into loan agreements, sales contracts, and leases with
18	contracting parties, including borrowers, lenders, developers, or
19	users, for the purpose of planning, regulating, and providing for
20	the financing and refinancing of any agricultural enterprise (as
21	defined in IC 15-7-4.9-2), rural development project (as defined
22	in IC 15-7-4.9-19.5), industrial development project, or
23	international exports, and distribute data and information
24	concerning the encouragement and improvement of agricultural
25	enterprises and agricultural employment, rural development
26	projects, industrial development projects, international exports,
27	and other types of employment in the state undertaken with the
28	assistance of the authority under this chapter.
29	(13) Enter into contracts or agreements with lenders and lessors
30	for the servicing and processing of loans and leases pursuant to
31	this chapter, IC 4-4-21, and IC 15-7-5.
32	(14) Provide technical assistance to local public bodies and to
33	profit and nonprofit entities in the development or operation of
34	agricultural enterprises, rural development projects, and industrial
35	development projects.
36	(15) To the extent permitted under its contract with the holders of
37	the bonds of the authority, consent to any modification with
38	respect to the rate of interest, time, and payment of any
39	installment of principal or interest, or any other term of any
40	contract, loan, loan note, loan note commitment, contract, lease,

or agreement of any kind to which the authority is a party. (16) To the extent permitted under its contract with the holders of



1	bonds of the authority, enter into contracts with any lender
2	containing provisions enabling it to reduce the rental or carrying
3	charges to persons unable to pay the regular schedule of charges
4	when, by reason of other income or payment by any department,
5	agency, or instrumentality of the United States of America or of
6	this state, the reduction can be made without jeopardizing the
7	economic stability of the agricultural enterprise, rural
8	development project, or industrial development project being
9	financed.
10	(17) Invest any funds not needed for immediate disbursement,
11	including any funds held in reserve, in direct and general
12	obligations of or obligations fully and unconditionally guaranteed
13	by the United States, obligations issued by agencies of the United
14	States, obligations of this state, or any obligations or securities
15	which may from time to time be legally purchased by
16	governmental subdivisions of this state pursuant to IC 5-13, or
17	any obligations or securities which are permitted investments for
18	bond proceeds or any construction, debt service, or reserve funds
19	secured under the trust indenture or resolution pursuant to which
20	bonds are issued.
21	(18) Collect fees and charges, as the authority determines to be
22	reasonable, in connection with its loans, guarantees, advances,
23	insurance, commitments, and servicing.
24	(19) Cooperate and exchange services, personnel, and information
25	with any federal, state, or local government agency, or
26	instrumentality of the United States or this state.
27	(20) Sell, at public or private sale, with or without public bidding,
28	any loan or other obligation held by the authority.
29	(21) Enter into agreements concerning, and acquire, hold, and
30	dispose by any lawful means, land or interests in land, building
31	improvements, structures, personal property, franchises, patents,
32	accounts receivable, loans, assignments, guarantees, and
33	insurance needed for the purposes of this chapter, IC 4-4-21, or
34	IC 15-7-5.
35	(22) Take assignments of accounts receivable, loans, guarantees,
36	insurance, notes, mortgages, security agreements securing notes,
37	and other forms of security, attach, seize, or take title by
38	foreclosure or conveyance to any industrial development project
39	when a guaranteed loan thereon is clearly in default and when in
40	the opinion of the authority such acquisition is necessary to
41	safeguard the industrial development project guaranty fund, and
42	sell, or on a temporary basis, lease, or rent such industrial



1	development project for any use.
2	(23) Expend money, as the authority considers appropriate, from
3	the industrial development project guaranty fund created by
4	section 16 of this chapter.
5	(24) Purchase, lease as lessee, construct, remodel, rebuild,
6	enlarge, or substantially improve industrial development projects,
7	including land, machinery, equipment, or any combination
8	thereof.
9	(25) Lease industrial development projects to users or developers,
10	with or without an option to purchase.
11	(26) Sell industrial development projects to users or developers,
12	for consideration to be paid in installments or otherwise.
13	(27) Make direct loans from the proceeds of the bonds to users or
14	developers for:
15	(A) the cost of acquisition, construction, or installation of
16	industrial development projects, including land, machinery,
17	equipment, or any combination thereof; or
18	(B) eligible expenditures for an educational facility project
19	described in IC 4-4-10.9-6.2(a)(2);
20	with the loans to be secured by the pledge of one (1) or more
21	bonds, notes, warrants, or other secured or unsecured debt
22	obligations of the users or developers.
23	(28) Lend or deposit the proceeds of bonds to or with a lender for
24	the purpose of furnishing funds to such lender to be used for
25	making a loan to a developer or user for the financing of industrial
26	development projects under this chapter.
27	(29) Enter into agreements with users or developers to allow the
28	users or developers, directly or as agents for the authority, to
29	wholly or partially construct industrial development projects to be
30	leased from or to be acquired by the authority.
31	(30) Establish reserves from the proceeds of the sale of bonds,
32	other funds, or both, in the amount determined to be necessary by
33	the authority to secure the payment of the principal and interest on
34	the bonds.
35	(31) Adopt rules governing its activities authorized under this
36	chapter, IC 4-4-21, and IC 15-7-5.
37	(32) Use the proceeds of bonds to make guaranteed participating
38	loans.
39	(33) Purchase, discount, sell, and negotiate, with or without
40	guaranty, notes and other evidences of indebtedness.
41	(34) Sell and guarantee securities.
42	(35) Make guaranteed participating loans under IC 4-4-21-26.



1	(36) Procure insurance to guarantee, insure, coinsure, and
2	reinsure against political and commercial risk of loss, and any
3	other insurance the authority considers necessary, including
4	insurance to secure the payment of principal and interest on notes
5	or other obligations of the authority.
6	(37) Provide performance bond guarantees to support eligible
7	export loan transactions, subject to the terms of this chapter or
8	IC 4-4-21.
9	(38) Provide financial counseling services to Indiana exporters.
10	(39) Accept gifts, grants, or loans from, and enter into contracts
11	or other transactions with, any federal or state agency,
12	municipality, private organization, or other source.
13	(40) Sell, convey, lease, exchange, transfer, or otherwise dispose
14	of property or any interest in property, wherever the property is
15	located.
16	(41) Cooperate with other public and private organizations to
17	promote export trade activities in Indiana.
18	(42) Make guarantees and administer the agricultural loan and
19	rural development project guarantee fund established by
20	IC 15-7-5.
21	(43) Take assignments of notes and mortgages and security
22	agreements securing notes and other forms of security, and attach,
23	seize, or take title by foreclosure or conveyance to any
24	agricultural enterprise or rural development project when a
25	guaranteed loan to the enterprise or rural development project is
26	clearly in default and when in the opinion of the authority the
27	acquisition is necessary to safeguard the agricultural loan and
28	rural development project guarantee fund, and sell, or on a
29	temporary basis, lease or rent the agricultural enterprise or rural
30	development project for any use.
31	(44) Expend money, as the authority considers appropriate, from
32	the agricultural loan and rural development project guarantee
33	fund created by IC 15-7-5-19.5.
34	(45) Reimburse from bond proceeds expenditures for industrial
35	development projects under this chapter.
36	(46) Do any act necessary or convenient to the exercise of the
37	powers granted by this chapter, IC 4-4-21, or IC 15-7-5, or
38	reasonably implied from those statutes, including but not limited
39	to compliance with requirements of federal law imposed from
40	time to time for the issuance of bonds.
41	(b) The authority's powers under this chapter shall be interpreted

broadly to effectuate the purposes of this chapter and may not be



1	construed as a limitation of powers.
2	(c) This chapter does not authorize the financing of industrial
3	development projects for a developer unless any written agreement that
4	may exist between the developer and the user at the time of the bond
5	resolution is fully disclosed to and approved by the authority.
6	SECTION 3. IC 4-4-31 IS ADDED TO THE INDIANA CODE AS
7	A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
8	1, 2003]:
9	Chapter 31. Regional Economic Growth Revolving Loan Fund
10	Sec. 1. As used in this chapter, "authority" refers to the Indiana
11	development finance authority created by IC 4-4-11-4.
12	Sec. 2. As used in this chapter, "department" refers to the
13	department of commerce.
14	Sec. 3. (a) As used in this chapter, "economic growth project"
15	means a project that creates or retains jobs in or otherwise
16	significantly affects the development of one (1) or more sectors of
17	Indiana's industrial, commercial, agricultural, service, or tourism
18	economies in an economic region designated by the department.
19	(b) The term "economic growth" includes the following:
20	(1) Economic development, including job training and existing
21	business retention and expansion.
22	(2) Community development, including rural, main street, and
23	downtown development.
24	(3) Marketing, advertising, and public relations.
25	(4) Development of research and information systems.
26	(5) Other programs approved by the department.
27	(c) The term "economic growth" does not include the following:
28	(1) Speculative activities.
29	(2) Debt reconsolidation.
30	(3) Relending.
31	Sec. 4. As used in this chapter, "eligible entity" means a
32	corporation, limited liability company, person, partnership, or
33	other business association, whether or not operated for profit, that
34	conducts an economic growth project.
35	Sec. 5. As used in this chapter, "fund" refers to the regional
36	economic growth revolving loan fund.
37	Sec. 6. (a) The regional economic growth revolving loan fund is
38	established. The fund is a nonlapsing, revolving loan fund. The
39	purpose of the fund is to create or retain jobs in Indiana or to
40	otherwise significantly affect sectors of Indiana's economy through
41	the establishment of a source of funding for economic growth

projects. The authority shall administer the fund.



1	(b) The fund consists of:
2	(1) amounts appropriated by the general assembly;
3	(2) the repayment proceeds of loans made to eligible entities
4	from the fund; and
5	(3) money received from any other source.
6	(c) The treasurer of state shall invest the money in the fund not
7	currently needed to meet the obligations of the fund in the same
8	manner as other public funds may be invested.
9	(d) Money in the fund at the end of a fiscal year does not revert
10	to the state general fund.
11	Sec. 7. The authority may use the fund to make loans to eligible
12	entities. The loans are subject to the following conditions:
13	(1) A loan may be used only for an economic growth project
14	conducted by an eligible entity.
15	(2) A loan may not exceed the lesser of:
16	(A) fifty percent (50%) of the cost of an economic growth
17	project; or
18	(B) either:
19	(i) for fixed assets, one hundred thousand dollars
20	(\$100,000); or
21	(ii) for working capital, fifty thousand dollars (\$50,000).
22	(3) Total loans to an eligible entity may not exceed one
23	hundred thousand dollars (\$100,000).
24	(4) The term of a loan under this section may not exceed:
25	(A) For working capital, five (5) years.
26	(B) For equipment, seven (7) years.
27	(C) For land or buildings, fifteen (15) years.
28	(5) The authority shall set the interest rate for a loan under
29	this chapter at a rate that is four percent (4%) below the
30	prime bank lending rate prevailing at the time the loan is
31	approved.
32	(6) The eligible entity shall guarantee the loan by securing the
33	loan with:
34	(A) mortgages;
35	(B) liens; or
36	(C) the assignment of rights to assets of the eligible entity.
37	(7) The eligible entity shall contribute at least ten percent
38	(10%) of the total cost of the economic growth project.
39	(8) The eligible entity shall submit annual financial statements
40	as required by the department.
41	Sec. 8. An eligible entity that wants a loan from the fund must
42	file an application with the authority and the department. An



1	application for a loan must include the following:
2	(1) A detailed description of the proposed economic growth
3	project.
4	(2) The purposes for which the loan will be spent.
5	(3) An estimate of the total cost of the economic growth
6	project.
7	(4) Any other information required by the department.
8	Sec. 9. The authority and the department shall jointly establish
9	criteria for awarding loans to eligible entities. These criteria must
10	include the following:
11	(1) The likelihood that the proposed economic growth project
12	would be carried out without assistance from the fund.
13	(2) The extent to which the proposed economic growth project
14	will create or retain jobs in or otherwise significantly affect
15	the development of one (1) or more sectors of Indiana's
16	industrial, commercial, agricultural, service, or tourism
17	economies in the region in which the eligible entity and the
18	economic growth project are located.
19	(3) Any other criteria that the authority and the department
20	consider relevant to the determination.
21	Sec. 10. A loan application submitted under section 8 of this
22	chapter shall be evaluated by:
23	(1) the authority;
24	(2) the advisory council to the department;
25	(3) the director of regional operations for the region in which
26	the eligible entity and the economic growth project are
27	located; and
28	(4) the program operations division of the department.
29	Sec. 11. A loan from the fund to an eligible entity is not a
30	general obligation of the eligible entity. Before making a loan to an
31	eligible entity, the authority shall determine that there is
32	reasonable assurance that the loan will be repaid. In making this
33	determination, the authority shall consider the following:
34	(1) The financial condition of the eligible entity, including
35	whether the ratio of the eligible entity's existing net working
36	capital to the eligible entity's total working capital needs is at
37	least twenty percent (20%).
38	(2) The financial feasibility of the economic growth project.
39	(3) The adequacy of any collateral provided by the eligible
40	entity under section 7(6) of this chapter.
41	(4) The participation of other lenders in the economic growth
42	project.



(5) Any other information that the authority or the department considers relevant to its determination.	
Sec. 12. The authority shall impose on an eligible entity that	
applies for a loan under this chapter: (1) a nonrefundable application fee of one hundred dollars	
(\$100); and	
(2) a closing fee in an amount equal to the expenses incurred	
by the department in closing the loan.	
Sec. 13. (a) The authority may adopt rules under IC 4-22-2 to	
implement this chapter. (b) The department may edent rules under IC 4.22.2 to	
(b) The department may adopt rules under IC 4-22-2 to implement this chapter.	

